



January 5, 2010

HOUSE BILL No. 1002

DIGEST OF HB 1002 (Updated December 15, 2009 10:29 am - DI 92)

Citations Affected: IC 4-13; IC 4-13.6; IC 5-16; IC 8-10; IC 8-23; IC 36-1; IC 36-8.

Synopsis: Hiring preferences. Provides that certain contracts for public works projects may not be awarded to a contractor that does not: (1) employ residents of Indiana as at least 80% of the employees working on the contract; and (2) enter into subcontracts only with subcontractors that employ residents of Indiana as at least 80% of the employees working on the contract. Applies the preference to certain contracts entered into by the public works division of the department of administration, any state agency or commission entering into a public works contract, the commission governing the ports of Indiana, the department of transportation, and units of local government. Provides that if a contract is being paid for with federal funds and the requirement that 80% of the employees must be residents of Indiana causes the loss of the federal funds as determined by the federal agency providing the funds, the preference does not apply. Prohibits certain governmental actions when the preference does not apply. Requires the
(Continued next page)

Effective: Upon passage.

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November 17, 2009, read first time and referred to Committee on Ways and Means.
January 5, 2010, amended, reported — Do Pass.

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commissioner of the department of administration to prepare an annual report for the public and the legislative council stating, for the contractors awarded public works contracts by the state and the subcontractors with which these contractors entered into subcontracts, the percentage of the contractors' and subcontractors' employees working on the public works contracts who are residents of Indiana. Allows the hiring authority of a city, county, or township to give a preference in hiring for police and fire department positions to: (1) a police officer or firefighter laid off by a city; (2) a county police officer laid off by a sheriff's department; or (3) a person who was employed full-time or part-time by a township to provide fire protection and emergency services and has been laid off by the township. Provides that a laid off police officer or firefighter may not receive the preference unless the person applies for employment and meets all of the employment requirements established by law and the hiring authority.

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January 5, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1002

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-13-1-16.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 16.5. (a) As used in this section, "covered**
4 **transaction" means the award of a contract under:**

- 5 (1) IC 4-13.6-6-2.8;
6 (2) IC 5-16-1-7.5;
7 (3) IC 8-10-1-7.7; or
8 (4) IC 8-23-9-4.6.

9 (b) As used in this section, "resident of Indiana" means a person
10 who is at least eighteen (18) years of age and is one (1) of the
11 following:

- 12 (1) A person who has registered a motor vehicle in Indiana.
13 (2) A person who is registered to vote in Indiana.
14 (3) A person who has a child enrolled in an elementary or a
15 secondary school located in Indiana.
16 (4) A person who derives more than one-half (1/2) of the
17 person's gross income (as defined in Section 61 of the Internal

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Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(c) Before October 1 of 2011, and each year thereafter, the commissioner shall compile, make available for public inspection, and submit to the legislative council a report for the preceding state fiscal year stating:

(1) for the contractors awarded contracts in covered transactions; and

(2) for the subcontractors with which the contractors referred to in subdivision (1) enter into subcontracts in connection with contracts awarded in covered transactions;

the percentage of the employees of the contractors and subcontractors who work on the contracts and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 2. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

(1) A person who has registered a motor vehicle in Indiana.

(2) A person who is registered to vote in Indiana.

(3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.

(4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) A contract for a public works project may not be awarded to a contractor who does not:

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(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Before August 15 of 2011, and each year thereafter, the division shall file with the commissioner a report for the preceding year stating:

(1) for each contractor awarded a contract under this chapter; and

(2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana.

(d) A contract awarded under this chapter for a public works project is terminated if the division determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections

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(a) through (e) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

SECTION 3. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Before August 15 of 2011, and each year thereafter, the state or a commission entering into contracts under this chapter shall file with the commissioner of the Indiana department of administration a report stating:

- (1) for each contractor awarded a contract under this chapter; and
- (2) for each subcontractor with which a contractor referred

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to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter; the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana.

(d) A contract awarded under this chapter for a public works project is terminated if the state or commission determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

- (1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and
 - (2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;
- subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The state or a commission may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

SECTION 4. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Before August 15 of 2011, and each year thereafter, the commission shall file with the commissioner of the Indiana department of administration a report stating:

- (1) for each contractor awarded a contract under this chapter; and
- (2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana.

(d) A contract awarded under this chapter for a public works project is terminated if the commission determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%)

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of the employees who work on the subcontract.

(e) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The commission may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

(1) Issuing a request for proposals.

(2) Issuing a bulletin inviting bids for the contract.

(3) Prequalifying a contractor for the contract.

(4) Evaluating a bid for the contract.

SECTION 5. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

(1) A person who has registered a motor vehicle in Indiana.

(2) A person who is registered to vote in Indiana.

(3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.

(4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted

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gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees working on the subcontract.

(c) Before August 15 of 2011, and each year thereafter, the department shall file with the commissioner of the Indiana department of administration a report stating:

(1) for each contractor awarded a contract under this chapter; and

(2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana.

(d) A contract awarded under this chapter for a public works project is terminated if the department determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined

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by the federal agency providing the funds;
 subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The department may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

SECTION 6. IC 36-1-12-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and

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(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees working on the subcontract.

(c) A contract awarded under this chapter for a public works project is terminated if the unit determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(d) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(e) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (a) through (d) do not apply.

(f) If an agency of the federal government makes a determination under subsection (e) which causes a contract to be exempted from the requirements of subsections (a) through (d), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(g) A contract exempted from the requirements of subsections (a) through (d) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (d):

(1) Issuing a request for proposals.

(2) Issuing a bulletin inviting bids for the contract.

(3) Prequalifying a contractor for the contract.

(4) Evaluating a bid for the contract.

SECTION 7. IC 36-8-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to subsection (b); (c), the board or persons having the authority to employ

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members of the fire or police department shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board or person having the authority to employ members of a fire or police department may give a preference for employment to any of the following:

(1) A police officer or firefighter laid off by another city under section 11 of this chapter.

(2) A county police officer laid off by a sheriff's department under IC 36-8-10-11.1.

(3) A person who:

(A) was employed full-time or part-time by a township to provide fire protection and emergency services; and

(B) has been laid off by the township.

~~(b)~~ **(c)** A person described in subsection (a) **or (b)** may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the fire or police department.

SECTION 8. IC 36-8-10-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (a) Subject to subsection ~~(b)~~, **(c)**, the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board may give a preference for employment to any of the following:

(1) A member of another department laid off under section 11.1 of this chapter.

(2) A police officer laid off by a city under IC 36-8-4-11.

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1 ~~(b)~~ (c) A person described in subsection (a) **or** (b) may not receive
 2 a preference for employment unless the person:

3 (1) applies; and

4 (2) meets all employment requirements prescribed:

5 (A) by law, including physical and age requirements; and

6 (B) by the department.

7 SECTION 9. IC 36-8-13-3, AS AMENDED BY P.L.182-2009(ss),
 8 SECTION 439, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a
 10 township, with the approval of the legislative body, may do the
 11 following:

12 (1) Purchase firefighting and emergency services apparatus and
 13 equipment for the township, provide for the housing, care,
 14 maintenance, operation, and use of the apparatus and equipment
 15 to provide services within the township but outside the corporate
 16 boundaries of municipalities, and employ full-time or part-time
 17 personnel to operate the apparatus and equipment and to provide
 18 services in that area. Preference in employment under this section
 19 shall be given according to the following priority:

20 (A) A war veteran who has been honorably discharged from
 21 the United States armed forces.

22 (B) A person whose mother or father was a:

23 (i) firefighter of a unit;

24 (ii) municipal police officer; or

25 (iii) county police officer;

26 who died in the line of duty (as defined in IC 5-10-10-2).

27 **The executive of a township may give a preference for**
 28 **employment under this section to a person who was employed**
 29 **full-time or part-time by another township to provide fire**
 30 **protection and emergency services and has been laid off by**
 31 **the township. The executive of a township may also give a**
 32 **preference for employment to a firefighter laid off by a city**
 33 **under IC 36-8-4-11.** A person described in this subdivision may
 34 not receive a preference for employment unless the person applies
 35 for employment and meets all employment requirements
 36 prescribed by law, including physical and age requirements, and
 37 all employment requirements prescribed by the fire department.
 38 (2) Contract with a municipality in the township or in a
 39 contiguous township that maintains adequate firefighting or
 40 emergency services apparatus and equipment to provide fire
 41 protection or emergency services for the township in accordance
 42 with IC 36-1-7.

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(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both,

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1 without contracts inside the corporate boundaries of the municipalities
2 if before August 1 of the year preceding the first calendar year to which
3 this subsection applies the township legislative body passes a
4 resolution approving the township's provision of the services without
5 contracts to the municipality. The resolution must identify the included
6 towns to which the resolution applies. In a township providing services
7 to a municipality under this section, the legislative body of the
8 township may opt out of participation under this subsection by adopting
9 a resolution before July 1 of a year. A copy of a resolution adopted
10 under this subsection shall be submitted to the executive of each
11 included town covered by the resolution, the county auditor, and the
12 department of local government finance.

13 SECTION 10. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1002, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 41 through 42.

Page 3, delete lines 1 through 3.

Page 3, line 4, delete "(c)" and insert "(b)".

Page 3, line 11, delete "(d)" and insert "(c)".

Page 3, line 21, delete "(e)" and insert "(d)".

Page 3, line 29, delete "(f)" and insert "(e)".

Page 3, delete lines 34 through 42, begin a new paragraph and insert:

"(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

(1) Issuing a request for proposals.

(2) Issuing a bulletin inviting bids for the contract.

(3) Prequalifying a contractor for the contract.

(4) Evaluating a bid for the contract."

Page 4, delete lines 20 through 24.

Page 4, line 25, delete "(c)" and insert "(b)".

Page 4, line 32, delete "(d)" and insert "(c)".

Page 5, line 1, delete "(e)" and insert "(d)".

Page 5, line 9, delete "(f)" and insert "(e)".

Page 5, delete lines 14 through 22, begin a new paragraph and

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insert:

"(f) If:

- (1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and**
- (2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;**

subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The state or a commission may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

- (1) Issuing a request for proposals.**
- (2) Issuing a bulletin inviting bids for the contract.**
- (3) Prequalifying a contractor for the contract.**
- (4) Evaluating a bid for the contract."**

Page 5, delete line 42.

Page 6, delete lines 1 through 4.

Page 6, line 5, delete "(c)" and insert "(b)".

Page 6, line 13, delete "(d)" and insert "(c)".

Page 6, line 23, delete "(e)" and insert "(d)".

Page 6, line 31, delete "(f)" and insert "(e)".

Page 6, delete lines 36 through 42.

Page 7, delete lines 1 through 2, begin a new paragraph and insert:

"(f) If:

- (1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and**
- (2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;**

subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this

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section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The commission may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract."

Page 7, delete lines 22 through 26.

Page 7, line 27, delete "(c)" and insert "(b)".

Page 7, line 35, delete "(d)" and insert "(c)".

Page 8, line 3, delete "(e)" and insert "(d)".

Page 8, line 11, delete "(f)" and insert "(e)".

Page 8, delete lines 16 through 24, begin a new paragraph and insert:

"(f) If:

- (1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and
- (2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (a) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) which causes a contract to be exempted from the requirements of subsections (a) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (a) through (e) may not reference the employment of Indiana residents. The department may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.

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(4) Evaluating a bid for the contract."

Page 9, delete lines 2 through 6.

Page 9, line 7, delete "(c)" and insert "**(b)**".

Page 9, line 15, delete "(d)" and insert "**(c)**".

Page 9, line 23, delete "(e)" and insert "**(d)**".

Page 9, delete lines 28 through 36, begin a new paragraph and insert:

"(e) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (a) through (d) do not apply.

(f) If an agency of the federal government makes a determination under subsection (e) which causes a contract to be exempted from the requirements of subsections (a) through (d), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(g) A contract exempted from the requirements of subsections (a) through (d) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (a) through (d):

(1) Issuing a request for proposals.

(2) Issuing a bulletin inviting bids for the contract.

(3) Prequalifying a contractor for the contract.

(4) Evaluating a bid for the contract.

SECTION 7. IC 36-8-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to subsection ~~(b)~~, **(c)**, the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

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(b) Subject to subsection (c), the board or person having the authority to employ members of a fire or police department may give a preference for employment to any of the following:

(1) A police officer or firefighter laid off by another city under section 11 of this chapter.

(2) A county police officer laid off by a sheriff's department under IC 36-8-10-11.1.

(3) A person who:

(A) was employed full-time or part-time by a township to provide fire protection and emergency services; and

(B) has been laid off by the township.

~~(b)~~ (c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the fire or police department.

SECTION 8. IC 36-8-10-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (a) Subject to subsection **~~(b)~~, (c)**, the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board may give a preference for employment to any of the following:

(1) A member of another department laid off under section 11.1 of this chapter.

(2) A police officer laid off by a city under IC 36-8-4-11.

~~(b)~~ (c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the department.

SECTION 9. IC 36-8-13-3, AS AMENDED BY P.L.182-2009(ss), SECTION 439, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a

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township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces.

(B) A person whose mother or father was a:

- (i) firefighter of a unit;
- (ii) municipal police officer; or
- (iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

The executive of a township may give a preference for employment under this section to a person who was employed full-time or part-time by another township to provide fire protection and emergency services and has been laid off by the township. The executive of a township may also give a preference for employment to a firefighter laid off by a city under IC 36-8-4-11. A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property

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of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted

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under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1002 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 16, nays 8.

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